

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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| In the Matter of |) | |
| |) | |
| South Central Communications Corp. |) | |
| |) | File Number EB-02-AT-232 |
| Owner of Antenna Structure Registration No. |) | |
| 1043695 at Sevierville, Tennessee |) | NAL/Acct. No.200232480008 |
| |) | |
| Knoxville, Tennessee |) | FRN 0002-9009-26 |
| |) | |

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: June 25, 2002

By the Enforcement Bureau, Atlanta Office:

I. INTRODUCTION

1. In this *Notice of Apparent Liability for Forfeiture*, we find that South Central Communications Corp. ("South Central"), owner of antenna structure no. 1043695 in Sevierville, Tennessee, willfully and repeatedly violated Sections 17.51, 17.23, 17.48(a), and 17.47(a)(2) of the Commission's Rules ("Rules"),¹ by failing to exhibit the prescribed obstruction lighting, failing to conform to the prescribed painting and lighting specifications, failing to notify the Federal Aviation Administration ("FAA") of the extinguishment of the structure lights, and failing to maintain an operating automatic alarm system to indicate when the structure lighting is not operating. We find South Central Communications Corp. apparently liable for forfeiture in the amount of ten thousand dollars (\$10,000).

II. BACKGROUND

2. On May 15, 2002, an agent from the FCC Enforcement Bureau's Atlanta Office ("Atlanta Office") inspected the antenna structure during daytime hours and after local sunset at 8:30 P.M. EDT. The agent observed that the structure was unpainted and that there were no daytime strobe lights in operation. After sunset the agent observed no red obstruction lighting on the structure. The Antenna Structure Registration ("ASR") specifies that the structure be painted and exhibit red obstruction lighting at night.

¹ 47 C.F.R §§ 17.51, 17.23, 17.48(a), and 17.47(a)(2).

3. On May 16, 2002, an agent from the Atlanta Office again inspected the antenna structure during the daytime and again observed no operating daytime strobe lighting. ASR number 1043695 was posted near the base of the structure. Contact with the FAA Flight Service Station in Nashville, Tennessee indicated that the extinguishment of the lights had not been reported.

4. On May 21, 2002, the agent contacted the structure owner's representative and chief engineer and advised South Central that the lighting on the antenna structure was not functioning and that the structure was not painted and marked as specified on the ASR. The ASR specifies that the structure be marked in accordance with FAA Chapters 3, 4, 5, and 9 of FAA Circular Number 70/7460-1G, which requires painting of the structure and red obstruction lighting at night. South Central's representative stated that the structure had been purchased unpainted from a former owner, and that South Central had installed medium intensity strobe lighting on the structure to operate 24 hours a day. Furthermore, the structure's lighting is monitored by an automatic alarm system, which detects power to the lights, but cannot detect actual failure of the bulbs. Thus, South Central was unaware of the failure of the strobe lighting. South Central also stated that the FAA had not been notified of the light outage because they were unaware of the outage.

III. DISCUSSION

5. Section 17.51 of the Rules requires prescribed obstruction lighting be exhibited from sunset to sunrise unless otherwise specified. Additionally, all high intensity and medium intensity obstruction lighting shall be exhibited continuously unless otherwise specified. The antenna structure was observed on May 15, 2002 during the daytime and after sunset at 8:30 P.M. with its obstruction lights not functioning. The structure was observed again on May 16, 2002 during the daytime with its obstruction lights not functioning. South Central admitted that they were unaware of the light outage and that the automatic alarm system had failed to notify them of the light outage. Section 17.23 requires the owner of an antenna structure to conform to the mandatory painting and lighting specifications contained in the FAA Advisory Circular that is specified in the Antenna Structure Registration (ASR). The antenna structure bearing registration number 1043695 observed on May 15 and 16, 2002, was not painted and had no red obstruction lighting. Section 17.48(a) requires the owner of an antenna structure which has been assigned lighting specifications to report immediately to the nearest Flight Service Station of the FAA any extinguishment of any top steady burning light or any flashing obstruction light, regardless of its position on the antenna structure, that is not corrected within 30 minutes. From at least May 15 through May 21, 2002, South Central had not reported the light outage to the FAA. Section 17.47(a)(2) requires the owner of any structure which is registered with the Commission and has been assigned lighting specifications to provide and properly maintain an automatic alarm system designed to detect any failure of such lights and to provide indication of such failure to the owner. From at least May 15 through May 21, 2002, South Central's alarm system could not detect a failure of the bulbs in the

lighting system.

6. Based on the evidence before us, we find South Central willfully² and repeatedly³ violated Sections 17.51, 17.23, 17.48(a), and 17.47(a)(2) of the Rules by failing to exhibit prescribed obstruction lighting, failing to conform to the prescribed painting and lighting specifications, failing to notify the FAA of the extinguishment of the lighting, and failing to maintain an automatic alarm system which can detect failure of the lighting.

7. Pursuant to Section 1.80(b)(4) of the Rules,⁴ the base forfeiture amount for failure to comply with prescribed lighting and marking is \$10,000. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934, as amended (“Act”), which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁵ Considering the entire record and applying the factors listed above, this case warrants a \$10,000 forfeiture.

IV. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,⁶ and Sections 0.111, 0.311 and 1.80 of the Rules,⁷ South Central Communications Corp. is hereby NOTIFIED of its APPARENT LIABILITY FOR A FORFEITURE in the amount of ten thousand dollars (\$10,000) for willful and repeated violation of Sections 17.51, 17.23, 17.48(a), and 17.47(a)(2) of the Rules, by failing to exhibit the prescribed obstruction lighting on its antenna structure, failing to conform to the prescribed painting and lighting specifications, failing to notify the FAA of the extinguishment of the lighting, and failing to maintain an automatic alarm system which can detect failure of the lighting.

9. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Commission's Rules, within thirty days of the RELEASE DATE of this *Notice Of Apparent Liability*, South Central Communications Corp. SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

² Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that “[t]he term ‘willful’, when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act” See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

³ The term “repeated” means the commission or omission of an act more than once or, if such commission or omission is continuous, for more than one day. 47 U.S.C. § 312(f)(2).

⁴ 47 C.F.R. § 1.80(b)(4).

⁵ 47 U.S.C. § 503(b)(2)(D).

⁶ 47 U.S.C. § 503(b).

⁷ 47 C.F.R. §§ 0.111, 0.311, 1.80.

10. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. and FRN referenced above. Requests for payment of the full amount of this *Notice of Apparent Liability* under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁸

11. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street SW, Washington DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division and MUST INCLUDE THE NAL/Acct. No. referenced above.

12. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

13. IT IS FURTHER ORDERED THAT a copy of this *Notice Of Apparent Liability* shall be sent by regular mail and Certified Mail Return Receipt Requested to South Central Communications Corp., 1100 Sharps Ridge Road, Knoxville, TN 37917.

FEDERAL COMMUNICATIONS COMMISSION

Fred L. Broce
District Director
Atlanta Office, Enforcement Bureau

⁸ See 47 C.F.R. § 1.1914.